

IT IS ORDERED

Date Entered on Docket: September 10, 2020



The Honorable Robert H Jacobvitz
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO**

In Re:

Elsie Bigman,

Debtor(s).

Case No.: 20-11193-j7

Chapter: 7

**DEFAULT ORDER GRANTING MOTION FOR RELIEF FROM STAY AND TO
ABANDON PERSONAL PROPERTY KNOWN AS 2016 FORD MUSTANG COUPE,
VIN #1FA6P8CF9G5237514**

This matter came before the Court on the Motion for Relief from Automatic Stay and to Abandon Personal Property filed on August 12, 2020, Docket No. 11 (the "Motion") by Nissan Motor Acceptance Corporation ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

1. On August 12, 2020, Movant served the Motion and a Notice of the Motion (the "Notice") on the case Trustee, Edward Alexander Mazel ("Trustee"), and on Debtor's counsel, Nicholas Cullander, by use of the Court's case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on

Debtor, Elsie Bigman, and on Co-Borrower, Michael E. Bigman, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

2. The Motion relates to the personal property known as 2016 Ford Mustang Coupe, VIN #1FA6P8CF9G5237514 (the "Collateral"). The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which 3 days was added under Bankruptcy Rule 9006(f);

3. The Notice was sufficient in form and content;

4. The objection deadline expired on September 5, 2020;

5. As of September 9, 2020, neither Debtor nor Trustee, nor any other party in interest, filed an objection to the Motion;

6. The Motion is well taken and should be granted as provided herein; and

7. By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that, on August 9, 2020, Teresa M. Perry, a Legal Assistant of Weinstein & Riley, P.S. searched the data banks of the Department of Defense Manpower Data Center ("DMDC") and found that DMDC does not possess any information indicating that Elsie Bigman or Michael Bigman are currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Collateral, of any lien priority, are hereby are relief from the automatic stay to permit Movant to exercise its right to take any and all action necessary and appropriate to enforce Movant's interest against the Collateral, including, but not limited to, the right to repossess and liquidate its Collateral and applicable State law.

2. The Trustee is deemed to have abandoned the Collateral from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Collateral therefore no longer is property of the estate. As a result, Movant need not name Trustee as a defendant in any state court action it may pursue to repossess and liquidate liens against the Collateral and need not notify Trustee of any sale of the Collateral.

3. This Order does not waive Movant's claim against the estate for any deficiency owed by Debtor after any repossession sale or other disposition of the Collateral. Movant may file an amended proof of claim for this bankruptcy case within 30 days after a repossession sale of the Collateral should it claim that Debtor owes any amount after the sale of the Collateral.

4. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

5. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

6. Movant is further granted relief from the stay to engage in reaffirmation discussions or negotiations or other settlement discussions with Debtor and to enter into a loan reaffirmation with Debtor(s).

XXX END OF ORDER XXX

Submitted by:

/s/ Elizabeth V. Friedenstein

Elizabeth V. Friedenstein

Weinstein & Riley, P.S.

2501 San Pedro Drive NE Bldg A, Suite 102

Albuquerque, NM 87110

Direct: 505-348-3075

Fax: 505-214-5116

Email: ElizabethF@w-legal.com

Attorney for Movant

Copies to:

Elsie Bigman
PO Box 3447
Farmington, NM 87499

Debtor(s)

Michael E Bigman
PO Box 3447
Farmington, NM 87499

Co-Borrower

Nicholas Cullander
3300 N. Butler Avenue, Suite 201
Farmington, NM 87401-2362
Attorney for Debtor

Edward Alexander Mazel
PO Box 21151
Albuquerque, NM 87154
Trustee

U.S. Trustee
United States Trustee
PO Box 608
Albuquerque, NM 87103-0608